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Hearing Date: February 4, 2019 at 10:00 a.m.
Objection Deadline: January 26, 2019 at 4:00 p.m.

and

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

**SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.**

Chapter 11

Case No. 18-23538 (RDD)

(Jointly Administered)

**ePOSSIBILITIES USA LTD.'S LIMITED OBJECTION TO
NOTICE OF CURE COSTS AND POTENTIAL ASSUMPTION AND ASSIGNMENT
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES
IN CONNECTION WITH GLOBAL SALE TRANSACTION**

TO THE HONORABLE ROBERT D. DRAIN, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW ePossibilities USA Ltd. ("ePossibilities") and files this Limited Objection to Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction (the "Limited Objection") to the alleged cure amount set forth in the Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale

Transaction [Docket No. 1731] (the “Cure Notice”) served upon ePossibilities by the Debtors, and in support thereof would show as follows:

I. BACKGROUND

1. On October 15, 2018 (“Petition Date”), Debtors commenced these Chapter 11 cases by filing voluntary petitions under Chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their affairs as debtors-in-possession under 11 U.S.C §§ 1107 and 1108.

2. ePossibilities has and is providing software services to Sears Holdings Management Corporation (“Sears”). The agreement for access and use of the Brand View web-based system via the web portal maintained by Brand View, which is part of ePossibilities, was entered into on January 2, 2018 under the Software as a Service (SAAS) Agreement.

3. On January 18, 2019, the Debtors filed the Cure Notice, including the amounts the Debtors believe were required to cure all defaults then existing under such contracts to be assumed (the “Cure Amounts”).

4. The Debtors indicated in the Cure Notice that they intend to assume an executory contracts with ePossibilities (the “Proposed Assumed Contract”).

5. Pursuant to the Cure Notice, the Debtors identified \$0.00 as the amount which it alleges to be owing to ePossibilities under the Proposed Assumed Contract (the “Proposed Cure Amount”).

6. ePossibilities agrees to the assumption of Proposed Assumed Contract with the Debtors; however, ePossibilities disputes the Proposed Cure Amount in the Cure Notice. ePossibilities’s books and records reflect a cure amount of \$55,602.54. The Proposed Cure Amount is less than what is actually owed under the Proposed Assumed Contract.

II. OBJECTION TO CURE AMOUNT

7. ePossibilities entered into a services agreement with Sears (the “ePossibilities Contract”) in which ePossibilities provides certain services as identified in the ePossibilities Contract. ePossibilities has no objection to the assumption of the ePossibilities Contract provided the proper cure amount is paid. Accordingly, ePossibilities files this Limited Objection objecting to the Proposed Cure Amount set forth in the Cure Notice.

8. Pursuant to 11 U.S.C. § 365(b)(1)(A), the Debtors must cure any defaults under the ePossibilities Contract in connection with any proposed assumption, as well as provide adequate assurance of future performance. In this case, Debtors’ Proposed Cure Amount of \$0.00 fails to cure the existing defaults of the ePossibilities Contract, as is required under Section 365 prior to assumption.

9. The correct cure amount is \$55,602.54 for prepetition payment defaults under the ePossibilities Contract. As a result, under 11 U.S.C. § 365(b)(1)(A), in order to assume the ePossibilities Contract, ePossibilities must receive a cure payment of at least \$55,602.54. Otherwise, the ePossibilities Contract cannot be assumed pursuant to Section 365.

WHEREFORE PREMISES CONSIDERED, ePossibilities prays (i) that the cure amount set forth in the Cure Notice be corrected to reflect the correct prepetition cure amount of \$55,602.54, which represents prepetition amounts due and owing under the ePossibilities Contract; (ii) that ePossibilities be paid a cure payment of \$55,602.54 in connection with the assumption of the ePossibilities Contract; and (iii) that ePossibilities be awarded such other and further relief to which it may be justly entitled at law or in equity.

Dated: January 25, 2019

Respectfully submitted,

By: /s/ Jonathan A. Grasso
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ATTORNEYS FOR ePOSSIBILITIES USA LTD.

CERTIFICATE OF SERVICE

The undersigned hereby certified that a true and correct copy of the foregoing instrument has been served via electronic mail and/or first class mail, postage pre-paid on this 25th day of January, 2019 upon the parties listed below and electronically via ECF notification upon all parties requesting service via ECF notification:

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